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10/556,656	02/26/2007	Frank Hundscheidt	P18107-US1	6549
27045	7590	09/16/2011	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			MILLS, DONALD L	
			ART UNIT	PAPER NUMBER
			2462	
			NOTIFICATION DATE	DELIVERY MODE
			09/16/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Continuation of 7. NOTE:

Amendment filed 09 August 2011 merely corrects "service specification" to -- service level specification; therefore, the rejection of claims 1-15 are maintained as previously presented in the Final Office Action filed 09 June 2011.

Continuation of 11. NOTE:

On page 6 of the remarks, regarding claims 1-15, the applicant argues neither Nishi nor Rhee disclose *distributing the service level specification to the first and the second edge node by means of partitioning or by means of replication and the ensuring the sum of the provided quality of service on said connections between the two communication partners does not exceed limits defined in the service level specification*. The Examiner respectfully disagrees. The claim does not express any functional or structural limitations regarding the claim terms. The Examiner equates the claimed invention as equivalent to the bandwidth broker of Nishi. The bandwidth broker 23 is a system with a data processing function operated by program control for managing services in a network cluster comprising multiple devices, the bandwidth broker 23 ensures that devices with the network cluster do not exceed their service level agreements by controlling the inter domain communication quality available to resource between domains. See paragraph 0016. The bandwidth broker ensures that the connections do not exceed their "service level specification". The bandwidth broker is programmed with the limitations of the system, "service level agreement in a service level specification," and distributes the "specification . . . by means of partitioning" through limiting the network clusters ability to exceed their service level agreements. As consistent with the Applicant's stated definition of the "service level specification" as "basically the quality of service parameters" (See page 5, lines 7-16 of the

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instant application). Essentially, the claim language is broad and lacks functional or structural language which would limit an interpretation to merely the Applicant's asserted interpretation on page 6 of the remarks. The Applicant is highly encouraged to amend the claims to more closely define the instant invention, because the instant claims are very broad and are taught by the prior art.

Further, on page 6 of the remarks, in response to applicant's arguments, the recitation of the "at least two connections" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In this particular instance the process or structural limitations are able to stand alone, because the body of the claim states "receiving or defining a service level agreement in a service level specification" but does not specify that the "agreement" is transmitted by the "at least two connections." The edge nodes could receive the "agreement" in any number of ways, such as at initialization via software. The applicant appears to impermissibly read limitations from the specification into the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONALD MILLS whose telephone number is (571)272-3094. The examiner can normally be reached on 9:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald L Mills/
Primary Examiner, Art Unit 2462